

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5293 of 1985

Date of decision: 14-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AGRICULTURAL PRODUCE MARKET COMMITTEE

Versus

JK VASAVADA DIRECTOR AGRICUL. MARKETING & RURAL FINANCE  
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Appearance:

MR SK JHAVERI for Petitioner  
None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE  
Date of decision: 14/03/97

## ORAL JUDGEMENT

The petitioner, Agricultural Produce Market Committee, Patan, has challenged the order of the Director of Agricultural Marketing and Rural Finance, Gujarat State, Gandhinagar, dated 26th April, 1985, declining to grant permission to the petitioner to sell 54 shops as proposed by it.

2. The counsel for the petitioner contended that the Director has no powers under section 44 to pass such order. The Market Committee has all the powers to dispose of its property and the Director of the Department could not have put any restrictions on its rights. Reference in this respect has been made by the counsel for the petitioner to section 10 of the Gujarat Agricultural Produce Market Act, 1963. Section 10 of the Act provides that every market committee shall be a body corporate by such name as the Director may specify by notification in the Official Gazette. It shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire, hold, lease, sell or otherwise transfer property, to raise loans upon the security of its property in the manner and subject to the limits and other requirements including guarantees prescribed by rules, and to contract and to do all other things necessary for the purposes for which it is established.

3. It is a case where the petitioner has prayed to the Director for grant of permission for sale of 54 shops, which has been declined under the order impugned in this special civil application. It is a matter in between the Agricultural Produce Market Committee and the State Government. The Agricultural Produce Market Committee is a statutory body incorporated under the 1963 Act, and it is difficult to appreciate the litigation by a statutory body against the State government. Time and again this Court has decided that such disputes should not come before this Court and these matters are to be decided by a High Power Committee to be constituted by the Government, but nothing has been brought to the notice of this Court whether those orders are complied with or not.

4. However, in the present case I find that against the order of the Director, remedy of revision is available to the petitioner under section 48 of the Act. Section 48 of the 1963 Act reads as under:

"Powers of State Government to call for

proceedings of market committee and to pass orders thereon.-- The State Government may at any time call for and examine the proceedings of the Director or of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the Director or the market committees. In any case in which it appears to the State Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the State Government may pass such order thereon as it thinks fit."

As the petitioner has an alternative remedy available against the order impugned in this special civil application, this petition is not maintainable. Instead of availing that alternate remedy the petitioner has approached this court, which, again, is difficult to appreciate. It is not the case of the petitioner in this special civil application that it has no alternative remedy available against the order impugned in this petition. In para 21 of the special civil application the petitioner has stated, "it has not preferred any other application, appeal or petition in respect of the subject matter of this petition to this Court or to the Hon'ble Supreme Court of India, or to any other court and the petitioner is improperly impaired in its working and realising proper income for the Market Committee and remove the difficulties that are arising out of leased premises for the benefit of the market committee. It is, therefore, necessary that the operation of the said order is suspended and the market committee is permitted to proceed with its work of deciding whether to transfer the shops on ownership basis or not". The petitioner has very conveniently avoided to disclose that remedy of revision is available in the present case against the impugned order. The conduct of the petitioner, who is a statutory body constituted under the 1963 Act is deprecated.

5. As the petitioner has an alternative efficacious remedy available against the impugned order by way of revision application under section 48 of the Act to the State Government, this writ petition is not maintainable.

6. In the result the petition is dismissed. In case the petitioner prefers revision application against the impugned order within a period of two months from today, the State Government shall decide the matter on merits and may not dismiss the same on the ground of limitation. Rule discharged. No order as to costs.

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